

Decision Notice and Finding of No Significant Impact
Ballard Petroleum Holdings, LLC Wildhorse Creek Oil Field Development

DECISION NOTICE

AND

FINDING OF NO SIGNIFICANT IMPACT

**Ballard Petroleum Holdings, LLC Wildhorse Creek Oil Field
Development**

T.54N., R.69W., Sections 17, 18, 19 and 20

Douglas Ranger District
Medicine Bow-Routt National Forests and
Thunder Basin National Grassland
Campbell County, Wyoming

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Introduction

This Decision Notice (DN) documents my decision on Ballard Petroleum Holdings, LLC Wildhorse Creek Oil Field Development (Ballard Wildhorse). A scoping document incorporating the requirements of the 215 appeal regulations was made available to the public for comment. An Environmental Assessment (EA) was then prepared incorporating the public comments and issues. The EA disclosed the environmental effects of the company proposal that will occur on the National Forest System lands located in the 2 alternatives to that proposal.

An interdisciplinary team of resource specialists conducted the environmental analysis and documented its results in the EA. In accordance with the National Forest Management Act (NFMA) and the National Environmental Policy Act (NEPA), the team considered the affected area, solicited externally and internally for issues and concerns, formulated alternatives that responded to the issues raised by the public, determined the likely environmental consequences based on the Thunder Basin National Grassland Land and Resource Management Plan Revision (Grassland Plan) management goals and objectives, management area direction and standards and guidelines, proposed design criteria/mitigation measures and project monitoring activities in response to these potential effects.

The Decision

I have reviewed the Ballard Wildhorse Project Environmental Assessment (EA) and the project file. Based on the Environmental Assessment and associated record compiled for this project, the comments received from interested parties, and existing Grassland Plan direction, it is my decision to select Alternative A the Proposed Action as stated below.

1. To approve activities necessary to drill, complete, operate, and reclaim five conventional oil wells on the Thunder Basin National Grassland.

This project is located on approximately 23-24 acres of National Grassland in Campbell County, Wyoming in T.54N., R.69W., Sections 17-20.

The proposal is to allow Ballard Petroleum Holdings, LLC to drill, complete, operate, and reclaim five (5) conventional oil wells within the administrative boundaries of Thunder Basin National Grassland. The wells include: Wildhorse Creek Federal # 4-18 located in SWSE (lot 19) Sec. 18, T54N-R69W, Wildhorse Creek Federal #44-18 located in SESE (lot 20) Sec. 18, T54N-R69W, Wildhorse Creek Federal #31-19 located in NWNE (lot 6) Sec. 19, T54N-R69W, Wildhorse Creek Federal # 42-19 located in SENE (lot 12) Sec. 19, T54N-R69W, and Wildhorse Creek # 21-20 located in NENW (lot 3) Sec. 20, T54N-R69W.

Design Criteria and Monitoring

The following design criteria and associated monitoring are integral components of this decision. All impact avoidance measures are included in of this Decision Notice and in the Environmental Assessment will be implemented as part of this decision.

Forest Service Requirements and National Grassland Plan Standards and Guidelines that apply

In response to public comments on the Ballard Wildhorse Project and USFS resource requirements and Grassland Plan standards and guidelines, design criteria and effects monitoring requirements were developed to reduce potential adverse impacts of the Proposed Alternatives and to monitor for the effectiveness of these measures. The design criteria measures described below are consistent with those measures required in the Grassland Plan and 2002 ROD for the Grassland Plan; the 1994 ROD for Oil and Gas Leasing on the TBNG; the PRB O&G FEIS and April 2003 ROD and RMP Amendments for the PRB O&G Project. The measures will be implemented either as APD requirements, or as COAs attached to and made a part of the APD.

Approval of the Proposed Action or Alternatives is subject to adherence with all of the operating plans, monitoring and design criteria in the Minerals Surface Use Plan, Drilling Plan, Water Management Plan (WMP), and application for permit to drill (APD), applicant's compliance with all committed measurements and requirements applied by the USFS, BLM COAs, and USFS Surface Protection, Rehabilitation and Operation Requirements.

General

- Follow standards and guidelines for the grassland plan.
- Operator should notify the USFS if any bald eagle nest/winter roost, or sensitive species are sighted.

Geology and Minerals

- Gas or oil migration will be moderated by well control, isolation of permeable formations by proper placement of cement in the casing annulus, casing ventilation to low-pressure regimes, and plugging procedures.

Surface Water

- Watershed conservation practices implemented as project design criteria will minimize and control runoff and sediment movement from construction areas. These practices are detailed in the Surface Use Plans submitted with the APDs and in other supporting documentation on file in the project record, which includes the specific details of the Drilling Program (8-Point Plan) for each well, Conditions of Approval that will apply to this project include the use of graveled travel surfaces, water diversion structures, and sediment traps and/or fences. Sediment movement will also be inhibited by the use of protective materials, such as riprap and/or brush, and/or the retention of native vegetation between construction areas and streams. Brush-hogging, rather than blading, will be used wherever possible to minimize ground disturbance. Protection of water chemistry will be enhanced by these measures as well as the measures intended to prevent or mitigate spills and to prohibit the migration of oil or gas from the well bore. Potential for impacts to surface water will be reduced or prohibited by the use of a closed system of tanks to hold any water produced. All produced water will be hauled away to an approved State of Wyoming disposal site.
- No monitoring or mitigation will be required for surface water. The design criteria for

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the proposed action and the standard conditions of approval for oil and gas development which apply to this project are adequate measures for protection of surface waters.

Groundwater

- Adherence to Ballard's drilling plan and the BLM and USFS COAs regarding the setting of casing at appropriate depths, following safe remedial procedures in the event of casing failure, and utilizing proper cementing procedures, will protect any potential fresh water aquifers above the target zone. This will ensure that ground water will not be adversely impacted by well drilling and completion operations. The design criteria included in the drilling plan will ensure that no significant impacts will occur to down-hole resources from the Proposed Action.
- No groundwater monitor wells or water well agreements will be required.

Air Quality

- As needed or required by the USFS, Ballard shall water roads during the construction phase in order to minimize fugitive dust emissions with at least 50 percent control efficiency.
- Speed limits set for the Project Area will be adhered to. This will reduce emissions of fugitive dust.

Soils

- Accelerated soil loss will be minimized by limiting the following: the removal of vegetation, the leveling of work areas, and the location of wells on slopes that require cuts and fills for well pad construction.
- All available topsoil (four to 12 inches) from constructed well locations including areas of cut and fill, and stockpile at the site. Topsoil will also be salvaged for use in reclamation on all other areas of surface disturbance. Topsoil will be clearly segregated from excess spoil material. Topsoil stockpiled for 10 months or longer will be signed and stabilized with annual ryegrass or other suitable cover crop.
- Areas of highly erosive soils shall be avoided when drill sites, two-track routes, and pipeline routes are surveyed and staked, in order to substantially reduce the amount of soil loss.
- Road construction that requires cuts-and-fills shall be minimized. Pipeline construction also shall avoid steeper slopes where possible. Where necessary, erosion control features, such as water bars or other means of diverting flows off sloping pipeline rights-of-way, shall be constructed to control increased runoff and erosion.
- Construction and drilling activity will not be conducted using frozen or saturated soil material during periods with watershed damage or excessive rutting is likely to occur
- Timely initiation of reclamation and re-vegetation efforts shall be required to effectively and immediately control accelerated soil loss due to either wind or water erosion.

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Reclamation

- A plan for reclaiming sites will be submitted for USFS approval. USFS approval is required before reclamation may begin. All concentrated use areas, such as well sites, will be restored to native vegetation.
- All areas disturbed by earthwork associated with this Proposed Action will be re-contoured to a natural appearance as near the original contour as possible, as soon as practical after the conclusion of operations or placement of lines in trenches.
- All disturbed areas over 0.25 acres in size must be mulched at the rate of two tons/acre with certified weed-free mulch such as hay, straw, wood chips, etc. The mulch will be crimped into the surface with a disk. Depressions will not be left to trap water or form ponds. Re-contoured areas will be outsloped to avoid concentrating surface waters and producing gullies.
- Reclamation of roads may include water bars. The Gold Book - Surface Operating Standards for Oil and Gas Exploration and Development (BLM and USFS 2005) will be used as guidance. They would be constructed on the contour at intervals beginning at the top of disturbed slopes. They should be at least one foot deep, with approximately two feet of drop per on 100 feet of length, with the berm on the downhill side.
- All disturbed areas, which have been compacted, will be scarified. Disturbed areas over 0.25 acre in size will be landscaped to approximate original contours, seeded and fenced with a fence design USFS approved by the District Ranger to exclude livestock.
- Roads abandoned at the end of production will be ripped to depth of 18 inches before they are disked, seeded, and mulched.
- Any topsoil conserved during excavation will be distributed evenly over these re-contoured areas. The land surface will be left “rough” after re-contouring to ensure that the maximum surface area will be available to support the reestablishment of vegetative cover. USFS goals for vegetative cover will guide re-vegetation efforts. Goals are erosion control, palatable and nutritious forage for livestock and wildlife, and visual esthetics.
- The reclamation work, including seeding and mulching shall be completed by six months of completion of drilling.

Vegetation Resources

- Vegetation will be kept a minimum of 15 feet from all wellheads.
- Re-vegetation efforts will comply with all instructions and specifications provided by the USFS. Seeding is expected to occur in the fall after September 1, prior to ground frost, or in the spring after frost has left the ground, prior to May 15.
- The seed mixture, including fertilizer and mulching requirements, seeding depth, and seed drilling specifications will be approved by the USFS. Seed will be drilled on the contour using a seed drill equipped with a depth regulator to ensure even depths of planting. Seed will be planted 0.5-inch deep. The anticipated seed mix and rates of application on USFS-administered lands are listed below.
- Ballard will be responsible for prevention and control of noxious weeds and weeds of concern on all areas of surface disturbance associated with this Project (well locations, roads, water management facilities, etc.). Use of pesticides shall comply with the

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applicable Federal and State laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of Interior. Prior to the use of pesticides on public land, the holder shall obtain from the USFS authorized officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the Authorized Officer to such use.

- Weed monitoring and weed control measures shall be conducted annually for the life of the project.
- Soil material stockpiled for 10 months or longer will be seeded according to instructions and specifications provided by the USFS.

SPECIES	RATE OF APPLICATION
western wheatgrass	7 lbs./Acre
slender wheatgrass	5 lbs./Acre
prairie clover	2 lb./Acre
green needlegrass	1 lbs./Acre
western yarrow	7 lbs./Acre

Wildlife Resources

- To reduce the risk of nest failure, construction activities (drilling, testing, new construction, workovers) shall not be conducted within the line-of-sight (up to 0.5 mile) of known raptor nest site between 1 March and 31 July. The USFS may waive these stipulations if a nest is documented to be inactive for a consecutive period of seven years.
- Construction shall be prohibited within 0.25 mile of greater sage grouse leks within the Project Area between 1 March and 15 June. Furthermore, noise from generation sources will not exceed 49 decibels (10 dBA above background noise) at any nearby sage grouse or sharp-tailed grouse display grounds.
- Roads shall be constructed to the minimum standard needed to accomplish the Purpose and Need for the Project while minimizing disturbance to soil and vegetation, as well as the potential for wildlife-vehicle collisions.
- Annual monitoring of raptor nest sites within the Project Area shall be completed by a qualified wildlife biologist during the life of the project.
- Annual surveys for greater sage grouse leks shall be completed by a qualified wildlife biologist during the life of the project.

Visual Resources

- Weed monitoring and weed control measures shall be conducted annually for the life of the Project.
- All above ground production facilities would be a “Standard Environmental Color” as shown on the Munsell Soil Color Charts of the Wyoming BLM. Approved colors are Sand Beige (5Y6/3) and /or Desert Brown (10Y 6/3) or Shale Green (5Y4/2). This requirement does not apply where special colors are required by safety regulations. All above ground facilities will be painted within six months of installation.

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- Night lighting will be designed to reduce impacts to the nighttime viewshed. Continuous dusk to dawn lighting at facilities will be limited. If continuous lighting is necessary, the light will be obstructed such that only the facility is directly lighted. Whenever the facilities are not actively being worked the lights will be at a minimum.

Cultural Resources

- If historic or archaeological materials are uncovered during construction, the Applicant will immediately suspend all operations that might further disturb such materials and contact the Authorized Officer at the Douglas Ranger District.
- Ballard will be responsible for informing all persons in the area who are associated with the Project that they will be subject to prosecution for knowingly disturbing historic or archaeological sites or for collecting artifacts.
- If historic or archaeological materials are uncovered during construction, Ballard will immediately suspend all operations that might further disturb such materials and contact the Authorized Officer at the Douglas Ranger District.

Paleontological Resources

- A USFS approved paleontologist has completed a vertebrate fossil survey and prepared a survey report.
- In the event that significant fossil remains are identified during Project construction, and subject to stipulation contained in and rights granted by lease terms, construction at that location shall be halted and the Authorizing Officer shall be notified. Construction will be suspended within 250 feet of said find. An evaluation of the paleontological discovery will be made by an approved professional paleontologist with five (5) working days, weather permitting, to determine the appropriate action(s) to prevent the potential loss of any significant Paleontological values. Operations within 250 feet of such discovery will not be resumed until written authorization to proceed is issued by the Authorizing Officer. The applicant will bear the cost of any required paleontological appraisals, surface collection of fossils, or salvage of any large conspicuous fossils of significant scientific interest discovered during the operation.

Land Use and Transportation

- Equipment and vehicles will be confined to access roads, well pads, and other approved access areas specified in the approved APDs or Surface Use Plans.

Hazardous Waste Management

- Hazardous substance, as defined by Comprehensive Environmental Response Liability Act, will not be used in the construction or drilling operations associated with these wells. Commercial preparations, which may contain hazardous substances, may be used in production operations and will be transported within the Project Area. Any materials containing hazardous substances will be handled in an appropriate manner to minimize the potential for leaks and spills to the environment. The only fluids/waste materials that

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are authorized to go into the drilling fluid pit are Resource Conservation and Recovery Act exempt oil and gas exploration and production waste.

- Spills of oil, gas, or any other potentially hazardous substances will be reported immediately to the USFS, BLM, and other responsible parties. Mitigation will begin immediately, as appropriate, through cleanup or removal to an approved disposal site.
- Project-related activities involving hazardous materials will be conducted in a manner that minimizes potential environmental impacts.
- Either a portable, self-contained or chemical toilet will be provided on location during drilling and completion operations. Upon completion of operations, or as necessary, the contents of toilet holding tanks will be disposed of at an authorized sewage disposal facility. Disposal will be in accordance with WDEQ rules and regulations regarding sewage treatment and disposal.
- Neither trash nor empty barrels will be placed in any temporary mud pit. Refuse (trash and other solid waste, including cans, paper, cable, etc.) generated during construction, drilling, and production testing activities will be contained in an enclosed receptacle, removed from the drill locations promptly, and hauled to an authorized disposal site.
- Immediately after removal of the drilling rig, debris and other waste materials not contained within trash barrels will be cleaned up and removed from each well location. Used motor oil will be placed in closed containers and disposed of at an authorized disposal site.
- Chemicals, sewage, garbage and other solid wastes will be removed from the site after drilling and completion operations.

Fire and Explosives

- Ballard shall institute all necessary precautions to ensure that fire hazard is minimized and keep fire-fighting equipment readily available when drilling.
- During all road building, pad construction, drilling, well completion, producing and abandonment activities, all gasoline, diesel-powered equipment used must be equipped with approved spark arresters or mufflers. Fire suppression materials will be kept on-site at all times. Ballard is responsible for all fires and must notify the Authorizing Officer.
- Should the use of explosives be required during construction, the operator shall comply with all applicable local, state, and Federal laws, regulations and requirements involving the storage handling, preparation, and use thereof. Prior to any blasting, the District Ranger will be notified and an approved blasting plan submitted to the USFS.

The Purpose and Need for the Action

The *purpose* of this Proposed Action is to implement those USFS and BLM decisions to make the minerals underlying this lease available to the people of the United States. The leasing decision determined development of these mineral resources is in the best interest of the public and will meet the goal in the Grassland Plan to improve the capability of the Nation's forests and grasslands to provide a desired sustainable level of uses, values, products, and services. Its purpose is to allow the applicant surface occupancy to exercise lease rights granted by the United States to develop the oil and gas resources on these leaseholds.

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This action is *needed*, because currently oil in the TBNG is being drained from Federal mineral acreage by wells on private (fee) and State lands. The desired action is to prevent drainage of Federal oil to non-Federal wells in the surrounding areas and the loss of public revenues. Development of the Ballard Wildhorse project wells will return royalties to the Federal Treasury.

This action responds to the goals and objectives outlined in the Grassland Plan, which can be found in Chapter 1, Goal 2 and Standards and guidelines part D. These guidelines help move the project area towards desired conditions for mineral development described in the Grassland Plan. This project will serve to meet the goal in the Grassland Plan.

This project will help implement the Federal Government's policy to foster and encourage mineral development as expressed in the Mining and Minerals Policy Act of 1970. This project will also fulfill the goals of the 1920 Mineral Leasing Act as amended which promotes the development of oil and gas resources. This project will be consistent with Executive Order Number 13212 Actions to Expedite Energy-Related Projects.

The lease area will accommodate up to 5 wells spaced 40 acres apart in compliance with State of Wyoming spacing requirements. The leases that will be developed under this decision include: WYW-139626, WYW-141187, and WYW-141188. These leases were issued prior to the MBNF Plan and the TBNG and Resource Management Plan of 1985, and the Grassland Plan.

The Record of Decision for the Grassland Plan acknowledges on page 18 and pages 42-43 that the existing lease rights, including those now held by the applicant, will be honored. New stipulations in the Grassland Plan will not apply to the applicant leases identified above if they will be inconsistent with the rights granted under those leases because they were issued before the date of the decision that implements the current plan.

Reasons for the Decision

Based, in large part on the issues and alternatives identified and analyzed as documented in the EA and the possible beneficial and adverse effects of implementing this alternative on the resources that occur in the analysis area, I have decided to implement Alternative A, the Proposed Action Alternative. Alternative A, allows the applicant to develop its lease under their legal right. Alternative A also best responds to the public issues identified in Chapter 1 of the EA. It has been shown to be consistent and in full compliance with Grassland Plan management direction for Management Area 5.12 (General Forests and Rangelands), and other applicable laws, regulations and policies.

Applicant submitted a plan of development for five (5) proposed oil wells located on their leases. Alternative A provides for protection of the potentially affected resources before, during and after the planned construction, drilling, testing, production, and reclamation activities associated with all oil development activities in the Ballard Wildhorse project area.

The effects on the quality of the human environment are primarily of local concern and, with the implementation of the design criteria included above, other standard permit stipulations, Conditions of Approval that have been made a part of this decision and that will be required, any

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adverse impacts that could occur as a result of this action will be insignificant and of relatively short duration.

The effects will not adversely impact public safety and do not involve any unique or unknown risks.

The Wildlife Biologist has determined that the potential adverse impacts to endangered, threatened, sensitive and rare plant and animal species or their habitats will not be significant due to project design criteria.

The Wildlife Biologist determined that the project, with implementation of the design criteria as discussed, is not expected to threaten the population viability or reduce the local habitat capability below its potential for the management indicator species (MIS), sage-grouse or sharp-tailed grouse, though the project may affect foraging birds.

Archeological (cultural resource) sites and paleontological resources do not occur in the project area. There are no known significant impacts that could occur to any cultural, historical or paleontological resources. A Class III inventory was used to make the determination that no historic properties will be affected.

The Scenic Integrity Objective (SIO) for the project area is “low”. The effect of the project on scenery management and attaining scenery objective will be negligible. No above-ground power lines will be constructed. Constructed well and gas gathering facilities will appear subordinate to the landscape.

The effects on the soil, vegetation resources and watersheds will not be significant and can be minimized using design criteria.

The Hydrologist has determined that, based on the best scientific information available at this time, measures are in place to minimize water resource impacts and that they were incorporated and designed into the project.

The project will not result in a violation of any Federal, State or local law or requirements imposed for the protection of the environment.

This action meets the goals of the Mining and Minerals Policy Act of 1970. The implementation of Alternative A, will allow the applicant to exercise its right to explore and develop their Ballard Wildhorse project area lease.

After reviewing the EA, the public comments received throughout the analysis process, and the project analysis file, I have determined that this oil well development project serves the public interest. The resource values present in the project area that will be preserved and protected and the Grassland Plan management objectives that can be accomplished for Management Area 5.12 will be at a level that serves that interest and need.

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Cumulative Impacts

The EA discloses the following cumulative impacts:

The project will not result in a significant incremental impact to the cumulative effects from existing mineral development.

The action alternative has a small but cumulative impact.

Scoping and Public Involvement

The President's Council for Environmental Quality (CEQ) regulations require an "early and open process for determining the scope of issues to be addressed, and for identifying significant issues related to a Proposed Action". In order to satisfy this CEQ requirement, the Responsible Official selected an Interdisciplinary (ID) Team made of specialists to carry out an internal scoping process. The ID Team scoped with the public to determine their concerns and issues with applicant's proposal, develop alternatives to the proposal that respond to any and all key issues raised, to analyze the beneficial and adverse environmental effects of the proposal and the alternatives considered in detail, and to prepare an environmental document.

The Ballard Wildhorse project was published in the MBRNF and TBNG Quarterly Schedule of Proposed Actions (SOPA). The public Scoping Statement and Request for Comments describing the Proposed Action was mailed to 93 organizations, agencies and individuals known to be interested in proposed activities on public lands on the TBNG, as well as to parties that could be affected by the proposal, including adjacent landowners, tribal governments, the Campbell County Commissioners and the State of Wyoming, and to the State and Federal Congressional delegations on December 23, 2004, and was published in the Casper Star Tribune on December 28, 2004. A complete mailing list is provided in Appendix C of the Environmental Assessment.

Six comment letters were received as a result of the scoping effort. The list of respondents included: Donny York, SHPO, United States Fish and Wildlife Service, Wyoming Department of Environmental Quality, Wyoming Game and Fish Department, Wendell Funk, Biodiversity Conservation Alliance & Wyoming Geological Survey.

Issues

The ID Team developed a list of the issues and concerns raised from the comments received from the public and governmental agencies during the scoping period. The issues were each categorized as either key issues that will drive Alternative development, create design criteria or as issues that will not result in the development of an alternative to the proposal, but that will be considered, analyzed and disclosed in the Environmental Consequences. Key issues that drive Alternatives development were defined as those directly or indirectly caused by implementing the Proposed Action and are listed below:

- Directional drilling or clustering is technically feasible
- Analyze the following: sage grouse, rare native fishes, and raptors
- Analyze adverse impact on TES species or migratory birds
- Aquatic considered for potential produced water flowing into Wildhorse and Spring Creeks
- Will the oil well field effect the water table
- Analyze water quality

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- Disclose extent of the proposed development, direct, indirect and cumulative impacts
- Fields to the north and east effect this project
- Cumulative impact beyond the Powder River Basin FEIS
- Analyze weed control and air quality

Other issues were identified as those:

- Outside the scope of the Proposed Action
- Already decided by law, regulation, Forest Plan, or other higher level decision
- Irrelevant to the decision to be made; or
- Conjectural and not supported by scientific or factual evidence

A summary of all issues and where the key issues are analyzed as environmental consequences in their appropriate resource were discussed in the EA in Chapter 4. Those issues that did result in Alternatives analyzed in the EA are discussed in Section 1.5.1.

Alternatives Considered in Detail

Alternative A, the “Proposed Action” was considered and evaluated. At the time the environmental effects analysis documented in the EA was completed, the IDT and District Ranger determined that it was consistent with the standards and guidelines in the Grassland Plan and with the Record of Decision because it honors valid existing rights.

Alternative A, the “No Action” alternative was also considered and evaluated. Although the applicant has a legal right to develop oil wells somewhere on their lease, analysis of a No Action Alternative in a NEPA document is required by 40 CFR 1502.14 (d) of the CEQ regulations. A No Action Alternative enables the decision-maker to compare the magnitude of environmental effects among Alternatives to existing management conditions.

Alternatives Considered, but Eliminated from Detailed Study

There where no other alternatives.

Finding of No Significant Impact (FONSI)

I have considered both the beneficial and potential adverse effects of Alternative A, as amended. Based on my experience with other oil projects in the same vicinity and the results of the site-specific environmental analysis and after a review of the EA and the project analysis file, I have determined that the effect(s) of implementing this alternative will be limited in scope and intensity. Any effects that may occur will be within an acceptable range and will, in and of themselves, or by using the appropriate design criteria contained in this decision, result in no significant adverse environmental impact(s), either individually or cumulatively, to the physical or biological components of the environment, as defined in 40 CFR 1508.27.

Based on my review of the Environmental Assessment, including appendices and supporting documents contained in the NEPA project file, it is my conclusion that Alternative A, as amended, is not a major Federal action that will significantly effect the quality of the human environment as defined at 40 CFR 1508.27. Therefore, an environmental impact statement will not be prepared. This finding is based on the following factors:

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1. Both beneficial and adverse effects have been considered and this action will not have a significant adverse impact on the quality of the human environment. The *context* of this project is regional and local to the Powder River Basin and the Thunder Basin National Grassland and Campbell County, Wyoming with environmental implications for the immediate/local area, only.
2. I have concluded that public health and safety will not be adversely affected.
3. This project area does not involve any characteristics or circumstances in the geographic area that are unique, such as proximity to heritage resources, park lands, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas.
4. This oil well development project is similar to other oil projects that have occurred on the Thunder Basin National Grassland. While oil projects are controversial with some public and environmental groups, there are no scientific disputes among Forest Service professional, trained resource management specialists over the likely effects of this project on the quality of the physical, biological and human environments. Therefore, I have concluded that Alternative A, the Modified Stipulation alternative as amended, is the environmentally preferable alternative course of action.
5. This action does not involve any *unique* or *unknown risks* to the human environment. It is similar to past actions that have occurred on the Thunder Basin National Grassland. The probable effects and risks are well understood.
6. Neither the actions planned nor this decision establishes a precedent for future actions with significant effects. I have concluded that they do not represent a decision in principle about any future action as every proposed oil well development project must be considered and evaluated on its individual merits.
7. There are no known significant local cumulative effects between this project and other projects implemented or planned on areas separated from the affected area of this project. This action, as related to past, other present and foreseeable future actions addressed in the Cumulative Effects section of the EA, will not individually or cumulatively result in significant adverse impacts to the human or biological environment.
8. The action will not adversely affect any historic sites now listed or eligible for listing on the National Register of Historic Places, nor will it cause the loss or destruction of any other significant scientific, cultural, heritage, historic, or prehistoric or paleontological resource. This finding is based upon the results of site-specific cultural and paleontological resource surveys conducted in the project area as part of the project Plan of Development and consultation with the Wyoming State Historic Preservation Officer.
9. This action will not adversely affect any listed or proposed endangered or threatened species or their habitat, or sensitive plant or animal species, critical habitats, or unique natural communities.

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10. This action does not constitute nor will it lead to any violation of any Federal, State or local law, ordinance or requirement imposed for the protection of the environment.

Findings Under the National Forest Management Act of 1976 (NFMA)

The Grassland Plan was reviewed for project compliance.

By this review, I have determined that this decision is consistent with the Grassland Plan. The action that will occur complies fully with the goals of the Grassland Plan and the Management Area Direction, including that contained under Management Area 5.12 and the Forest-wide standards and guidelines.

Lease developing site-specific project activities on the Thunder Basin National Grassland (TBNG) are subject to opportunities granted and limitations imposed by the Grassland Plan and the FEIS for Oil and Gas Leasing on the TBNG. In April of 1994, the FS completed a Final Environmental Impact Statement (FEIS) and issued a Record of Decision (ROD) that authorized the oil and gas leasing action on the TBNG. In that ROD, which made a decision about leasing, the Regional Forester also provided surface use guidance for developing oil and gas resources on TBNG.

The project is consistent and compatible with the management prescriptions, goals and objectives for the desired conditions of the NFS lands described in the plan. The decided action (Alternative A) complies fully with the Grassland Plan.

Findings Required By Other Laws

Floodplains, wetlands, prime lands, threatened and endangered plant and animal species, global warming, minerals, cultural resources, consumers, civil rights, women, minority groups, and other environmental factors have been considered and will not be adversely affected.

The environmental analysis documented in this EA is tiered to the Final Environmental Impact Statement and Land and Resource Management Plans for Dakota Prairie Grasslands, Nebraska National Forest Units and Thunder Basin National Grasslands (TBNG EIS). I have determined that this decision is consistent with the Grassland Plan approved by the Regional Forester on July 31, 2002. The activities and projects approved in this decision are consistent with the Grassland Plan Direction in Chapter 1, and the Standards and Guidelines in Chapter 3, Management Area Prescription 5.12 of the Grassland Plan. The general environmental effects that result from implementing the activities of a project are described in Chapter 3 of the TBNG EIS. Project specific effects of implementing, both the No Action Alternative and the Proposed Action are displayed in the EA in Chapter 4.

The decision complies and is consistent with:

Endangered Species Act of December 28, 1973, (87 Stat. 884) P.L. 93-205, as amended. The Biological Assessment/Biological Evaluations documents that the planned oil wells development

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project will have “no effect” on any Threatened or Endangered species (Ute ladies’ tresses orchid, and bald eagle), and a call of “no impact” on sensitive species (Barr’s milkvetch, prairie moonwort, foxtail sedge, bristly-stalk sedge, Visher’s buckwheat, larchleaf beardtougue, woolly twinpod, highbush cranberry, and sage sparrow). Also a call of “may adversely impact individuals” was made for northern leopard frog, northern harrier, loggerhead shrike, short-eared owl, swift fox, ferruginous hawk, grasshopper sparrow, chestnut-collared longspur, Townsend’s big-eared bat, fringe-tailed myotis, Lewis’ woodpecker, Brewers sparrow, and greater sage-grouse.

Executive Order 11990 - Protection of Wetland 42 FR 26961 (signed May 25, 1977) and Executive Order 11988 - Floodplain Management 42 FR 26951, (signed May 25, 1977). The Forest Service has evaluated the planned action in accordance with these Executive Orders and the decided action has been found to be in compliance with those orders. No wetlands or floodplains occur in the project area.

National Historic Preservation Act of October 15, 1966, (80 Stat. 915) P.L 89-665, as amended, & Archeological Resources Protection Act of October 31, 1979, (93 Stat. 721) P.L 96-95, as amended. A Heritage resource inventory and report have been completed for the Federal lands in the project area. The Wyoming State Historic Preservation Officer has concurred with the Forest Service determination that the project will have no effects on cultural resources.

Clean Water Act (Federal Water Pollution Control Act) of June 30, 1948, (62 Stat II 55) P.L. 80-845, as amended by the Water Quality Act of 1987, (Act of February 4, 1987, P.L. 100-4) and other laws.

Mineral Leasing Act of February 25, 1920, (41 Stat. 437, as amended, (41 Stat. 437); P.L. 66-146, 30 USC 181.

Federal Onshore Oil and Gas Leasing Reform Act of 1987, 30 USC 181, et. seq.; P.L. 100-203.

Implementation Date

This project will be implemented on or after the fall of 2006.

Decision Appeal Provisions

This decision is subject to administrative review pursuant to Federal regulations at 36 CFR 215.11. Appeals (including attachments) must be in writing and filed (regular mail, fax, e-mail, hand-delivery, express delivery or messenger service) with the Appeal Deciding Officer (§215.8) within 45 days following the date of publication of a legal notice of this decision in the *Casper Star Tribune*. The publication date of the legal notice in the newspaper of record is the exclusive means for calculating the time to file and appeal (§215.15(a)). Those wishing to appeal should not rely upon dates or timeframe information provided by any other source. To be able to appeal any person, non-federal agency or entity has to provide comment or otherwise expressed interest in a particular proposed action by the close of the comment period.

The formats that our systems will accept for electronic comments are: as an email message, plain text (.txt), rich format (.rtf), or word.

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For electronically mailed comments or appeals, the sender should normally receive an automated electronic acknowledgment from the agency as confirmation of receipt. If the sender does not receive an automated acknowledgment of the receipt of the comments, it is the sender's responsibility to ensure timely receipt by other means.

Where to File an Appeal

USDA, Forest Service, Region 2

Attn: Appeal Deciding Officer

POB 25127

Lakewood CO 80225-25127

In person: 740 Simms Street, Golden, CO. Office hours are 7:30 a.m. to 4:30 p.m. Monday through Friday MT, except holidays.

Fax: 303-275-5134

Email: appeals-rocky-mountain-regional-office@fs.fed.us

It is an appellant's responsibility to provide sufficient activity-specific evidence and rationale, focusing on the decision, to show why the Responsible Official's decision should be reversed. Notices of Appeal that do not meet the requirements of 36 CFR 215.14 will be dismissed.

Pursuant to 36 CFR 215.9(a), if no appeal is filed, implementation of this decision may occur on, but not before, the fifth business day following the close of the appeal filing period. If an appeal is received, implementation may occur on, but not before, the 15th business day following the date of appeal disposition.

Contact Person

The record of the environmental effects analysis process and project file is available for public review at the Douglas Ranger District Office. For further information about this decision and the analysis process that preceded it, contact Mike Sierz, Minerals Program Manager, 2250 East Richards Street, Douglas, Wyoming, 82633, or telephone (307) 358-4690, email: mlsierz@fs.fed.us.

Responsible Official

MISTY A. HAYS
Deputy District Ranger

Date:

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